

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

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H.B. No. 1927

A BILL TO BE ENTITLED

AN ACT

relating to provisions governing the carrying of a firearm by a person who is 21 years of age or older and not otherwise prohibited by state or federal law from possessing the firearm and to other provisions related to the carrying, possessing, transporting, or storing of a firearm or other weapon; creating criminal offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act shall be known as the Firearm Carry Act of 2021.

SECTION 2. The Legislature of the State of Texas finds that:

(1) The Second Amendment of the United States Constitution protects an individual right to keep and bear arms, and to possess a firearm unconnected with service in a militia, and to use that firearm for traditionally lawful purposes, such as self-defense within the home;

(2) Section 23, Article I, of the Texas Constitution secures for Texas citizens the right to keep and bear arms;

(3) persons who are currently prohibited from possessing firearms under state and federal law will not gain the right to possess or carry a firearm under this legislation; and

(4) persons who are currently prohibited from possessing a firearm include: persons convicted of a felony as described by the provisions of Section 46.04, Penal Code, persons convicted of certain assault offenses under Section 22.01, Penal

Code, punishable as a Class A misdemeanor and involving a member of the person's family or household, certain persons who are the subject of a protective order under Section 46.04(c), Penal Code, and persons meeting any of the criteria listed in 18 U.S.C. Section 922(g), including persons adjudicated to be mentally incompetent.

SECTION 3. Article 14.03, Code of Criminal Procedure, is amended by adding Subsection (h) to read as follows:

(h)(1) A peace officer who is acting in the lawful discharge of the officer's official duties may disarm a person at any time the officer reasonably believes it is necessary for the protection of the person, officer, or another individual. The peace officer shall return the handgun to the person before discharging the person from the scene if the officer determines that the person is not a threat to the officer, person, or another individual and if the person has not committed a violation that results in the arrest of the person.

(2) A peace officer who is acting in the lawful discharge of the officer's official duties may temporarily disarm a person when the person enters a nonpublic, secure portion of a law enforcement facility, if the law enforcement agency provides a gun locker where the peace officer can secure the person's handgun. The peace officer shall secure the handgun in the locker and shall return the handgun to the person immediately after the person leaves the nonpublic, secure portion of the law enforcement facility.

(3) For purposes of this subsection, "law enforcement facility" and "nonpublic, secure portion of a law enforcement

1 facility" have the meanings assigned by Section 411.207, Government  
2 Code.

3 SECTION 4. Article 55.01(a), Code of Criminal Procedure, is  
4 amended to read as follows:

5 (a) A person who has been placed under a custodial or  
6 noncustodial arrest for commission of either a felony or  
7 misdemeanor is entitled to have all records and files relating to  
8 the arrest expunged if:

9 (1) the person is tried for the offense for which the  
10 person was arrested and is:

11 (A) acquitted by the trial court, except as  
12 provided by Subsection (c); or

13 (B) convicted and subsequently:

14 (i) pardoned for a reason other than that  
15 described by Subparagraph (ii); ~~or~~

16 (ii) pardoned or otherwise granted relief  
17 on the basis of actual innocence with respect to that offense, if  
18 the applicable pardon or court order clearly indicates on its face  
19 that the pardon or order was granted or rendered on the basis of the  
20 person's actual innocence; or

21 (iii) the statute prohibiting the conduct  
22 has been repealed and the offense of which the person was convicted  
23 is an offense related solely to the unlawful possession of a  
24 firearm; or

25 (2) the person has been released and the charge, if  
26 any, has not resulted in a final conviction and is no longer pending  
27 and there was no court-ordered community supervision under Chapter

1 42A for the offense, unless the offense is a Class C misdemeanor,  
2 provided that:

3 (A) regardless of whether any statute of  
4 limitations exists for the offense and whether any limitations  
5 period for the offense has expired, an indictment or information  
6 charging the person with the commission of a misdemeanor offense  
7 based on the person's arrest or charging the person with the  
8 commission of any felony offense arising out of the same  
9 transaction for which the person was arrested:

10 (i) has not been presented against the  
11 person at any time following the arrest, and:

12 (a) at least 180 days have elapsed  
13 from the date of arrest if the arrest for which the expunction was  
14 sought was for an offense punishable as a Class C misdemeanor and if  
15 there was no felony charge arising out of the same transaction for  
16 which the person was arrested;

17 (b) at least one year has elapsed from  
18 the date of arrest if the arrest for which the expunction was sought  
19 was for an offense punishable as a Class B or A misdemeanor and if  
20 there was no felony charge arising out of the same transaction for  
21 which the person was arrested;

22 (c) at least three years have elapsed  
23 from the date of arrest if the arrest for which the expunction was  
24 sought was for an offense punishable as a felony or if there was a  
25 felony charge arising out of the same transaction for which the  
26 person was arrested; or

27 (d) the attorney representing the

1 state certifies that the applicable arrest records and files are  
2 not needed for use in any criminal investigation or prosecution,  
3 including an investigation or prosecution of another person; or

4 (ii) if presented at any time following the  
5 arrest, was dismissed or quashed, and the court finds that the  
6 indictment or information was dismissed or quashed because:

7 (a) the person completed a veterans  
8 treatment court program created under Chapter 124, Government Code,  
9 or former law, subject to Subsection (a-3);

10 (b) the person completed a mental  
11 health court program created under Chapter 125, Government Code, or  
12 former law, subject to Subsection (a-4);

13 (c) the person completed a pretrial  
14 intervention program authorized under Section 76.011, Government  
15 Code, other than a veterans treatment court program created under  
16 Chapter 124, Government Code, or former law, or a mental health  
17 court program created under Chapter 125, Government Code, or former  
18 law;

19 (d) the presentment had been made  
20 because of mistake, false information, or other similar reason  
21 indicating absence of probable cause at the time of the dismissal to  
22 believe the person committed the offense; or

23 (e) the indictment or information was  
24 void; or

25 (B) prosecution of the person for the offense for  
26 which the person was arrested is no longer possible because the  
27 limitations period has expired.

SECTION 5. Section 37.0815(b), Education Code, is amended to read as follows:

(b) This section does not authorize a person to possess, transport, or store a handgun, a firearm, or ammunition in violation of Section 37.125 of this code, Section 46.03 [~~or 46.035~~], Penal Code, or other law.

SECTION 6. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.02096 to read as follows:

Sec. 411.02096. REPORT REGARDING CERTAIN FIREARM STATISTICS. (a) Not later than January 31 of each year, the department shall collect information for the preceding calendar year related to the carrying of firearms by persons in this state, including:

(1) the number of persons who applied for a license to carry a handgun under Subchapter H compared to the yearly average number of people who applied for a license from 2010 through 2020; and

(2) any other relevant information related to the carrying of firearms by persons in this state.

(b) The department shall identify the entities that possess information required by Subsection (a) and require each entity to report the information to the department in the manner prescribed by the department.

(c) Not later than February 1 of each year, the department shall prepare and submit to the governor, the lieutenant governor, and each member of the legislature a report that includes the information described by Subsection (a).

1        (d) This section expires September 1, 2028.

2        SECTION 7. Sections 411.186(a), (c), and (d), Government  
3 Code, are amended to read as follows:

4        (a) The department shall revoke a license under this section  
5 if the license holder:

6                (1) was not entitled to the license at the time it was  
7 issued;

8                (2) made a material misrepresentation or failed to  
9 disclose a material fact in an application submitted under this  
10 subchapter;

11                (3) subsequently becomes ineligible for a license  
12 under Section 411.172, unless the sole basis for the ineligibility  
13 is that the license holder is charged with the commission of a Class  
14 A or Class B misdemeanor or equivalent offense, or of an offense  
15 under Section 42.01, Penal Code, or equivalent offense, or of a  
16 felony under an information or indictment;

17                (4) ~~[is convicted of an offense under Section 46.035,~~  
18 ~~Penal Code,~~

19                ~~[(5)]~~ is determined by the department to have engaged  
20 in conduct constituting a reason to suspend a license listed in  
21 Section 411.187(a) after the person's license has been previously  
22 suspended twice for the same reason; or

23                (5) ~~[(6)]~~ submits an application fee that is  
24 dishonored or reversed if the applicant fails to submit a cashier's  
25 check or money order made payable to the "Department of Public  
26 Safety of the State of Texas" in the amount of the dishonored or  
27 reversed fee, plus \$25, within 30 days of being notified by the

1 department that the fee was dishonored or reversed.

2 (c) A license holder whose license is revoked for a reason  
3 listed in Subsections (a)(1)-(4) [~~(a)(1)-(5)~~] may reapply as a new  
4 applicant for the issuance of a license under this subchapter after  
5 the second anniversary of the date of the revocation if the cause  
6 for revocation does not exist on the date of the second anniversary.  
7 If the cause for revocation exists on the date of the second  
8 anniversary after the date of revocation, the license holder may  
9 not apply for a new license until the cause for revocation no longer  
10 exists and has not existed for a period of two years.

11 (d) A license holder whose license is revoked under  
12 Subsection (a)(5) [~~(a)(6)~~] may reapply for an original or renewed  
13 license at any time, provided the application fee and a dishonored  
14 payment charge of \$25 is paid by cashier's check or money order made  
15 payable to the "Texas Department of Public Safety."

16 SECTION 8. Section 411.203, Government Code, is amended to  
17 read as follows:

18 Sec. 411.203. RIGHTS OF EMPLOYERS. This subchapter does  
19 not prevent or otherwise limit the right of a public or private  
20 employer to prohibit persons who are licensed under this subchapter  
21 from carrying a handgun on the premises of the business. In this  
22 section, "premises" has the meaning assigned by Section 46.03  
23 [~~46.035(f)(3)~~], Penal Code.

24 SECTION 9. Section 411.2031(a)(3), Government Code, is  
25 amended to read as follows:

26 (3) "Premises" has the meaning assigned by Section  
27 46.03 [~~46.035~~], Penal Code.



SECTION 10. Subchapter H, Chapter 411, Government Code, is amended by adding Section 411.2049 to read as follows:

Sec. 411.2049. CERTAIN INVESTIGATORY STOPS AND INQUIRIES PROHIBITED. A peace officer may not make an investigatory stop or other temporary detention to inquire as to a person's possession of a handgun solely because the person is carrying a partially or wholly visible handgun in a holster.

SECTION 11. Sections 411.209(a) and (j), Government Code, are amended to read as follows:

(a) Except as provided by Subsection (i), a state agency or a political subdivision of the state may not take any action, including an action consisting of the provision of notice by a communication described by Section 30.06 or 30.07, Penal Code, that states or implies that a license holder who is carrying a handgun under the authority of this subchapter is prohibited from entering or remaining on a premises or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other place by Section 46.03 ~~[or 46.035]~~, Penal Code, or other law.

(j) In this section, "premises" has the meaning assigned by Section 46.03 ~~[46.035]~~, Penal Code.

SECTION 12. Section 552.002(a)(1), Health and Safety Code, is amended to read as follows:

(1) "License holder" has the meaning assigned by Section 46.03 ~~[46.035(f)]~~, Penal Code.

SECTION 13. Section 773.0145(a), Health and Safety Code, is amended to read as follows:

(a) This section applies to:

(1) an amusement park, as defined by Section 46.03  
~~[46.035]~~, Penal Code;

(2) a child-care facility, as defined by Section  
42.002, Human Resources Code;

(3) a day camp or youth camp, as defined by Section  
141.002;

(4) a private or independent institution of higher  
education, as defined by Section 61.003, Education Code;

(5) a restaurant, as defined by Section 17.821,  
Business & Commerce Code;

(6) a sports venue, as defined by Section 504.151,  
Local Government Code;

(7) a youth center, as defined by Section 481.134; or

(8) subject to Subsection (b), any other entity that  
the executive commissioner by rule designates as an entity that  
would benefit from the possession and administration of epinephrine  
auto-injectors.

SECTION 14. Section 42.042(e-2), Human Resources Code, is  
amended to read as follows:

(e-2) The department may not prohibit the foster parent of a  
child who resides in the foster family's home from transporting the  
child in a vehicle where a handgun is present if the handgun is in  
the possession and control of the foster parent and the foster  
parent is not otherwise prohibited by law from carrying a handgun  
~~[licensed to carry the handgun under Subchapter H, Chapter 411,~~  
~~Government Code]~~.

SECTION 15. Section 52.062(b), Labor Code, is amended to read as follows:

(b) Section 52.061 does not prohibit an employer from prohibiting an employee who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, or who otherwise lawfully possesses a firearm, from possessing a firearm the employee is otherwise authorized by law to possess on the premises of the employer's business. In this subsection, "premises" has the meaning assigned by Section 46.03 [~~46.035(f)(3)~~], Penal Code.

SECTION 16. Section 229.001(b), Local Government Code, is amended to read as follows:

(b) Subsection (a) does not affect the authority a municipality has under another law to:

(1) require residents or public employees to be armed for personal or national defense, law enforcement, or another lawful purpose;

(2) regulate the discharge of firearms or air guns within the limits of the municipality, other than at a sport shooting range;

(3) except as provided by Subsection (b-1), adopt or enforce a generally applicable zoning ordinance, land use regulation, fire code, or business ordinance;

(4) regulate the use of firearms, air guns, or knives in the case of an insurrection, riot, or natural disaster if the municipality finds the regulations necessary to protect public health and safety;

(5) regulate the storage or transportation of

explosives to protect public health and safety, except that 25  
pounds or less of black powder for each private residence and 50  
pounds or less of black powder for each retail dealer are not  
subject to regulation;

(6) regulate the carrying of an air gun or [a] firearm,  
~~[or air gun by a person]~~ other than a ~~[person licensed to carry a]~~  
handgun carried by a person not otherwise prohibited by law from  
carrying a handgun ~~[under Subchapter H, Chapter 411, Government~~  
~~Code],~~ at a:

(A) public park;

(B) public meeting of a municipality, county, or  
other governmental body;

(C) political rally, parade, or official  
political meeting; or

(D) nonfirearms-related school, college, or  
professional athletic event;

(7) ~~[regulate the carrying of a firearm by a person~~  
~~licensed to carry a handgun under Subchapter H, Chapter 411,~~  
~~Government Code,~~] in accordance with Section 411.209, Government  
Code, regulate the carrying of a firearm by any person;

(8) regulate the hours of operation of a sport  
shooting range, except that the hours of operation may not be more  
limited than the least limited hours of operation of any other  
business in the municipality other than a business permitted or  
licensed to sell or serve alcoholic beverages for on-premises  
consumption;

(9) regulate the carrying of an air gun by a minor on:

(A) public property; or

(B) private property without consent of the property owner; or

(10) except as provided by Subsection (d-1), regulate or prohibit an employee's carrying or possession of a firearm, firearm accessory, or ammunition in the course of the employee's official duties.

SECTION 17. Section 30.05, Penal Code, is amended by amending Subsections (d) and (f) and adding Subsections (d-3) and (f-4) to read as follows:

(d) Subject to Subsection (d-3), an ~~[An]~~ offense under this section is:

(1) a Class B misdemeanor, except as provided by Subdivisions (2) and (3);

(2) a Class C misdemeanor, except as provided by Subdivision (3), if the offense is committed:

(A) on agricultural land and within 100 feet of the boundary of the land; or

(B) on residential land and within 100 feet of a protected freshwater area; and

(3) a Class A misdemeanor if:

(A) the offense is committed:

(i) in a habitation or a shelter center;

(ii) on a Superfund site; or

(iii) on or in a critical infrastructure facility;

(B) the offense is committed on or in property of

an institution of higher education and it is shown on the trial of the offense that the person has previously been convicted of:

(i) an offense under this section relating to entering or remaining on or in property of an institution of higher education; or

(ii) an offense under Section 51.204(b)(1), Education Code, relating to trespassing on the grounds of an institution of higher education; or

(C) the person carries a deadly weapon during the commission of the offense.

(d-3) An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200 if the person enters the property, land, or building with a firearm or other weapon and the sole basis on which entry on the property or land or in the building was forbidden is that entry with a firearm or other weapon was forbidden, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, land, or building with the firearm or other weapon, the actor:

(1) personally received from the owner of the property or another person with apparent authority to act for the owner notice that entry with a firearm or other weapon was forbidden, as given through:

(A) notice under Subsection (b)(2)(A), including oral or written communication; or

(B) if the actor is unable to reasonably understand the notice described by Paragraph (A), other personal notice that is reasonable under the circumstances; and

1           (2) subsequently failed to depart.

2           (f) It is a defense to prosecution under this section that:

3               (1) the basis on which entry on the property or land or  
4 in the building was forbidden is that entry with a handgun was  
5 forbidden; and

6               (2) the person was carrying:

7                   (A) a license issued under Subchapter H, Chapter  
8 411, Government Code, to carry a handgun; and

9                   (B) a handgun:

10                       (i) in a concealed manner; or

11                       (ii) in a [~~shoulder or belt~~] holster.

12           (f-4) It is a defense to prosecution under this section  
13 that:

14               (1) the sole basis on which entry on the property or  
15 land or in the building was forbidden is that entry with a firearm  
16 or other weapon was forbidden; and

17               (2) the actor:

18                   (A) personally received from the owner of the  
19 property or another person with apparent authority to act for the  
20 owner notice that entry with a firearm or other weapon was  
21 forbidden, as given through:

22                       (i) notice under Subsection (b)(2)(A),  
23 including oral or written communication; or

24                       (ii) if the actor is unable to reasonably  
25 understand the notice described by Subparagraph (i), other personal  
26 notice that is reasonable under the circumstances; and

27                   (B) promptly departed from the property.

SECTION 18. Section 30.06(c)(2), Penal Code, is amended to read as follows:

(2) "License holder" has the meaning assigned by Section 46.03 [~~46.035(f)~~].

SECTION 19. Section 30.06(e), Penal Code, is amended to read as follows:

(e) It is an exception to the application of this section that the property on which the license holder carries a handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 [~~or 46.035~~].

SECTION 20. Section 30.07(c)(2), Penal Code, is amended to read as follows:

(2) "License holder" has the meaning assigned by Section 46.03 [~~46.035(f)~~].

SECTION 21. Sections 30.07(e) and (f), Penal Code, are amended to read as follows:

(e) It is an exception to the application of this section that the property on which the license holder openly carries the handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 [~~or 46.035~~].

(f) It is not a defense to prosecution under this section that the handgun was carried in a [~~shoulder or belt~~] holster.

SECTION 22. Section 46.02, Penal Code, is amended by amending Subsections (a), (a-1), and (b) and adding Subsection (a-5) to read as follows:



(a) A person commits an offense if the person:

(1) intentionally, knowingly, or recklessly carries on or about his or her person a handgun; ~~and~~

(2) is younger than 21 years of age at the time of the offense; and

(3) is not:

(A) on the person's own premises or premises under the person's control; or

(B) inside of or directly en route to a motor vehicle or watercraft that is owned by the person or under the person's control.

(a-1) A person younger than 21 years of age commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun in a motor vehicle or watercraft that is owned by the person or under the person's control at any time in which:

(1) the handgun is in plain view, unless the person is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, and the handgun is carried in a ~~[shoulder or belt]~~ holster; or

(2) the person is:

(A) engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic or boating; or

(B) prohibited by law from possessing a firearm~~+~~  
~~or~~

~~[(C) a member of a criminal street gang, as~~

1 ~~defined by Section 71.01].~~

2       (a-5) A person commits an offense if the person carries a  
3 handgun and intentionally displays the handgun in plain view of  
4 another person in a public place. It is an exception to the  
5 application of this subsection that the handgun was partially or  
6 wholly visible but was carried in a holster.

7       (b) Except as provided by Subsection [~~(c)~~—~~or~~] (d), an  
8 offense under this section is a Class A misdemeanor.

9       SECTION 23. Section 46.03, Penal Code, is amended by  
10 amending Subsections (a), (c), (e-1), (e-2), and (g) and adding  
11 Subsections (a-2), (a-3), (a-4), and (g-2) to read as follows:

12       (a) A person commits an offense if the person intentionally,  
13 knowingly, or recklessly possesses or goes with a firearm,  
14 location-restricted knife, club, or prohibited weapon listed in  
15 Section 46.05(a):

16               (1) on the physical premises of a school or  
17 educational institution, any grounds or building on which an  
18 activity sponsored by a school or educational institution is being  
19 conducted, or a passenger transportation vehicle of a school or  
20 educational institution, whether the school or educational  
21 institution is public or private, unless:

22                       (A) pursuant to written regulations or written  
23 authorization of the institution; or

24                       (B) the person possesses or goes with a concealed  
25 handgun that the person is licensed to carry under Subchapter H,  
26 Chapter 411, Government Code, and no other weapon to which this  
27 section applies, on the premises of an institution of higher

1 education or private or independent institution of higher  
2 education, on any grounds or building on which an activity  
3 sponsored by the institution is being conducted, or in a passenger  
4 transportation vehicle of the institution;

5 (2) on the premises of a polling place on the day of an  
6 election or while early voting is in progress;

7 (3) on the premises of any government court or offices  
8 utilized by the court, unless pursuant to written regulations or  
9 written authorization of the court;

10 (4) on the premises of a racetrack;

11 (5) in or into a secured area of an airport; ~~or~~

12 (6) within 1,000 feet of premises the location of  
13 which is designated by the Texas Department of Criminal Justice as a  
14 place of execution under Article 43.19, Code of Criminal Procedure,  
15 on a day that a sentence of death is set to be imposed on the  
16 designated premises and the person received notice that:

17 (A) going within 1,000 feet of the premises with  
18 a weapon listed under this subsection was prohibited; or

19 (B) possessing a weapon listed under this  
20 subsection within 1,000 feet of the premises was prohibited;

21 (7) on the premises of a business that has a permit or  
22 license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic  
23 Beverage Code, if the business derives 51 percent or more of its  
24 income from the sale or service of alcoholic beverages for  
25 on-premises consumption, as determined by the Texas Alcoholic  
26 Beverage Commission under Section 104.06, Alcoholic Beverage Code;

27 (8) on the premises where a high school, collegiate,

1 or professional sporting event or interscholastic event is taking  
2 place, unless the person is a participant in the event and a  
3 firearm, location-restricted knife, club, or prohibited weapon  
4 listed in Section 46.05(a) is used in the event;

5 (9) on the premises of a correctional facility;

6 (10) on the premises of a civil commitment facility;

7 (11) on the premises of a hospital licensed under  
8 Chapter 241, Health and Safety Code, or on the premises of a nursing  
9 facility licensed under Chapter 242, Health and Safety Code, unless  
10 the person has written authorization of the hospital or nursing  
11 facility administration, as appropriate;

12 (12) on the premises of a mental hospital, as defined  
13 by Section 571.003, Health and Safety Code, unless the person has  
14 written authorization of the mental hospital administration;

15 (13) in an amusement park; or

16 (14) in the room or rooms where a meeting of a  
17 governmental entity is held, if the meeting is an open meeting  
18 subject to Chapter 551, Government Code, and if the entity provided  
19 notice as required by that chapter.

20 (a-2) Notwithstanding Section 46.02(a-5), a license holder  
21 commits an offense if the license holder carries a partially or  
22 wholly visible handgun, regardless of whether the handgun is  
23 holstered, on or about the license holder's person under the  
24 authority of Subchapter H, Chapter 411, Government Code, and  
25 intentionally or knowingly displays the handgun in plain view of  
26 another person:

27 (1) on the premises of an institution of higher

1 education or private or independent institution of higher  
2 education; or

3 (2) on any public or private driveway, street,  
4 sidewalk or walkway, parking lot, parking garage, or other parking  
5 area of an institution of higher education or private or  
6 independent institution of higher education.

7 (a-3) Notwithstanding Subsection (a) or Section 46.02(a-5),  
8 a license holder commits an offense if the license holder carries a  
9 handgun on the campus of a private or independent institution of  
10 higher education in this state that has established rules,  
11 regulations, or other provisions prohibiting license holders from  
12 carrying handguns pursuant to Section 411.2031(e), Government  
13 Code, or on the grounds or building on which an activity sponsored  
14 by such an institution is being conducted, or in a passenger  
15 transportation vehicle of such an institution, regardless of  
16 whether the handgun is concealed, provided the institution gives  
17 effective notice under Section 30.06.

18 (a-4) Notwithstanding Subsection (a) or Section 46.02(a-5),  
19 a license holder commits an offense if the license holder  
20 intentionally carries a concealed handgun on a portion of a  
21 premises located on the campus of an institution of higher  
22 education in this state on which the carrying of a concealed handgun  
23 is prohibited by rules, regulations, or other provisions  
24 established under Section 411.2031(d-1), Government Code, provided  
25 the institution gives effective notice under Section 30.06 with  
26 respect to that portion.

27 (c) In this section:

1           (1) "Amusement park" means a permanent indoor or  
2 outdoor facility or park where amusement rides are available for  
3 use by the public that is located in a county with a population of  
4 more than one million, encompasses at least 75 acres in surface  
5 area, is enclosed with access only through controlled entries, is  
6 open for operation more than 120 days in each calendar year, and has  
7 security guards on the premises at all times. The term does not  
8 include any public or private driveway, street, sidewalk or  
9 walkway, parking lot, parking garage, or other parking area.

10           (2) "Institution of higher education" and "private or  
11 independent institution of higher education" have the meanings  
12 assigned by Section 61.003, Education Code.

13           (3) "License holder" means a person licensed to carry  
14 a handgun under Subchapter H, Chapter 411, Government Code.

15           (4) "Premises" means a building or a portion of a  
16 building. The term does not include any public or private driveway,  
17 street, sidewalk or walkway, parking lot, parking garage, or other  
18 parking area.

19           (5) ~~[(2) "Amusement park" and "premises" have the~~  
20 ~~meanings assigned by Section 46.035.]~~

21           ~~[(3)]~~ "Secured area" means an area of an airport  
22 terminal building to which access is controlled by the inspection  
23 of persons and property under federal law.

24           (e-1) It is a defense to prosecution under Subsection (a)(5)  
25 that the actor:

26           (1) possessed, at the screening checkpoint for the  
27 secured area, a ~~[concealed]~~ handgun that the actor was licensed to

1 carry under Subchapter H, Chapter 411, Government Code; and

2 (2) exited the screening checkpoint for the secured  
3 area immediately upon completion of the required screening  
4 processes and notification that the actor possessed the handgun.

5 (e-2) A peace officer investigating conduct that may  
6 constitute an offense under Subsection (a)(5) and that consists  
7 only of an actor's possession of a ~~[concealed]~~ handgun that the  
8 actor is licensed to carry under Subchapter H, Chapter 411,  
9 Government Code, may not arrest the actor for the offense unless:

10 (1) the officer advises the actor of the defense  
11 available under Subsection (e-1) and gives the actor an opportunity  
12 to exit the screening checkpoint for the secured area; and

13 (2) the actor does not immediately exit the checkpoint  
14 upon completion of the required screening processes.

15 (g) Except as provided by Subsections ~~[Subsection]~~ (g-1)  
16 and (g-2), an offense under this section is a felony of the third  
17 degree.

18 (g-2) An offense committed under Subsection (a)(8),  
19 (a)(10), (a)(11), (a)(13), (a-2), (a-3), or (a-4) is a Class A  
20 misdemeanor.

21 SECTION 24. Section 46.04, Penal Code, is amended by adding  
22 Subsection (a-1) and amending Subsection (e) to read as follows:

23 (a-1) A person who is a member of a criminal street gang, as  
24 defined by Section 71.01, commits an offense if the person  
25 intentionally, knowingly, or recklessly carries on or about his or  
26 her person a handgun in a motor vehicle or watercraft.

27 (e) An offense under Subsection (a) is a felony of the third

1 degree. An offense under Subsection (a-1), (b), or (c) is a Class A  
2 misdemeanor.

3 SECTION 25. Section 46.15, Penal Code, is amended by  
4 amending Subsections (b) and (1) and adding Subsection (m) to read  
5 as follows:

6 (b) Sections [Section] 46.02, 46.03(a)(14), and 46.04(a-1)  
7 do [does] not apply to a person who:

8 (1) is in the actual discharge of official duties as a  
9 member of the armed forces or state military forces as defined by  
10 Section 437.001, Government Code, or as a guard employed by a penal  
11 institution;

12 (2) is traveling;

13 (3) is engaging in lawful hunting, fishing, or other  
14 sporting activity on the immediate premises where the activity is  
15 conducted, or is en route between the premises and the actor's  
16 residence, motor vehicle, or watercraft, if the weapon is a type  
17 commonly used in the activity;

18 (4) holds a security officer commission issued by the  
19 Texas Private Security Board, if the person is engaged in the  
20 performance of the person's duties as an officer commissioned under  
21 Chapter 1702, Occupations Code, or is traveling to or from the  
22 person's place of assignment and is wearing the officer's uniform  
23 and carrying the officer's weapon in plain view;

24 (5) acts as a personal protection officer and carries  
25 the person's security officer commission and personal protection  
26 officer authorization, if the person:

27 (A) is engaged in the performance of the person's



1 duties as a personal protection officer under Chapter 1702,  
2 Occupations Code, or is traveling to or from the person's place of  
3 assignment; and

4 (B) is either:

5 (i) wearing the uniform of a security  
6 officer, including any uniform or apparel described by Section  
7 1702.323(d), Occupations Code, and carrying the officer's weapon in  
8 plain view; or

9 (ii) not wearing the uniform of a security  
10 officer and carrying the officer's weapon in a concealed manner;

11 (6) is carrying:

12 (A) a license issued under Subchapter H, Chapter  
13 411, Government Code, to carry a handgun; and

14 (B) a handgun:

15 (i) in a concealed manner; or

16 (ii) in a [~~shoulder or belt~~] holster;

17 (7) holds an alcoholic beverage permit or license or  
18 is an employee of a holder of an alcoholic beverage permit or  
19 license if the person is supervising the operation of the permitted  
20 or licensed premises; or

21 (8) is a student in a law enforcement class engaging in  
22 an activity required as part of the class, if the weapon is a type  
23 commonly used in the activity and the person is:

24 (A) on the immediate premises where the activity  
25 is conducted; or

26 (B) en route between those premises and the  
27 person's residence and is carrying the weapon unloaded.

1           (1) Sections 46.02 and~~[,]~~ 46.03(a)(1), (a)(2), (a)(3), and  
2   (a)(4) ~~[, and 46.035(a), (a-1), (a-2), (a-3), (b)(1), (b)(5), and~~  
3 ~~(b)(6)]~~ do not apply to a person who carries a handgun if:

4           (1) the person carries the handgun on the premises, as  
5 defined by the statute providing the applicable offense, of a  
6 location operating as an emergency shelter during a state of  
7 disaster declared under Section 418.014, Government Code, or a  
8 local state of disaster declared under Section 418.108, Government  
9 Code;

10          (2) the owner, controller, or operator of the premises  
11 or a person acting with the apparent authority of the owner,  
12 controller, or operator, authorized the carrying of the handgun;

13          (3) the person carrying the handgun complies with any  
14 rules and regulations of the owner, controller, or operator of the  
15 premises that govern the carrying of a handgun on the premises; and

16          (4) the person is not prohibited by state or federal  
17 law from possessing a firearm.

18          (m) Section 46.03 does not apply to a person unless the  
19 person:

20           (1) personally received from the owner of the property  
21 or another person with apparent authority to act for the owner  
22 notice that carrying a weapon on the property was prohibited, as  
23 given through:

24                   (A) oral or written communication; or  
25                   (B) if the person is unable to reasonably  
26 understand the communication described by Paragraph (A), other  
27 personal notice that is reasonable under the circumstances; and

1           (2) subsequently failed to depart.

2           SECTION 26. The following provisions are repealed:

- 3           (1) Section 11.041, Alcoholic Beverage Code;  
4           (2) Section 11.61(e), Alcoholic Beverage Code;  
5           (3) Section 61.11, Alcoholic Beverage Code;  
6           (4) Section 61.71(f), Alcoholic Beverage Code;  
7           (5) Section 411.198(b), Government Code;  
8           (6) Section 411.204(d), Government Code;  
9           (7) Section 411.206(c), Government Code;  
10          (8) Section 46.02(c), Penal Code;  
11          (9) Section 46.03(a-1), Penal Code; and  
12          (10) Section 46.035, Penal Code.

13          SECTION 27. Notwithstanding Section 411.02096, Government  
14 Code, as added by this Act, the Department of Public Safety is not  
15 required to submit the initial report required by that section  
16 before February 1, 2023.

17          SECTION 28. The changes in law made by this Act apply only  
18 to an offense committed on or after the effective date of this Act.  
19 An offense committed before the effective date of this Act is  
20 governed by the law in effect on the date the offense was committed,  
21 and the former law is continued in effect for that purpose. For  
22 purposes of this section, an offense was committed before the  
23 effective date of this Act if any element of the offense occurred  
24 before that date.

25          SECTION 29. This Act takes effect September 1, 2021.

**ADOPTED**

**MAY 05 2021**

*Latey Law*  
Secretary of the Senate

*C. Schmidt*

FLOOR AMENDMENT NO. 1

BY: \_\_\_\_\_

1 Amend H.B. No. 1927 (senate committee printing) as follows:

2 (1) In SECTION 3 of the bill, in added Article 14.03(h)(2),  
3 Code of Criminal Procedure (page 2, lines 1 and 2), following  
4 "locker", insert "or other secure area" in each instance that it  
5 appears.

6 (2) In SECTION 16 of the bill, strike amended Section  
7 229.001(b)(7), Local Government Code (page 5, lines 60 through 63),  
8 and substitute the following:

9 (7) regulate the carrying of a firearm by a person  
10 licensed to carry a handgun under Subchapter H, Chapter 411,  
11 Government Code, in accordance with Section 411.209, Government  
12 Code;

13 (3) In SECTION 22 of the bill, in amended Section  
14 46.02(a-1), Penal Code (page 7, line 52), strike "younger than 21  
15 years of age".

16 (4) In SECTION 22 of the bill, in amended Section  
17 46.02(a-1)(1), Penal Code (page 7, line 57), between "the person"  
18 and "is", insert "is 21 years of age or older or".

# ADOPTED

MAY 05 2021

FLOOR AMENDMENT NO. 2

*Lately Spaw*  
Secretary of the Senate

BY: C. Schmitt

1 Amend H.B. No. 1927 (senate committee printing) in SECTION 22  
2 of the bill, by striking amended Section 46.02(a)(2), Penal Code  
3 (page 7, lines 44 through 45), and substituting the following:

4 (2) at the time of the offense:

5 (A) is younger than 21 years of age; or

6 (B) has been convicted of an offense under  
7 Section 22.01(a)(1), 22.05, 22.07, or 42.01(a)(7) or (8) committed  
8 in the five-year period preceding the date the instant offense was  
9 committed; and

ADOPTED

MAY 05 2021

*Lately Law*  
Secretary of the Senate

FLOOR AMENDMENT NO.

7

BY:

*Sam Sudwell*

1 Amend H.B. No. 1927 (senate committee printing) as follows:

2 (1) In the recital to SECTION 22 of the bill (page 7, lines  
3 39-40), strike "Subsection (a-5)" and substitute "Subsections  
4 (a-5) and (a-6)".

5 (2) In SECTION 22 of the bill, after added Section  
6 46.02(a-5), Penal Code (page 8, between lines 4 and 5), insert the  
7 following:

8 (a-6) A person commits an offense if the person:

9 (1) carries a handgun while the person is intoxicated;  
10 and

11 (2) is not:

12 (A) on the person's own property or property  
13 under the person's control or on private property with the consent  
14 of the owner of the property; or

15 (B) inside of or directly en route to a motor  
16 vehicle or watercraft:

17 (i) that is owned by the person or under the  
18 person's control; or

19 (ii) with the consent of the owner or  
20 operator of the vehicle or watercraft.

ADOPTED  
✓✓

MAY 05 2021

*Latey Law*  
Secretary of the Senate

*C.*

*[Signature]*

FLOOR AMENDMENT NO. 8

BY: \_\_\_\_\_

Amend H.B. No. 1927 (senate committee printing) as follows:

(1) In the recital to SECTION 22 of the bill (page 7, lines 39 and 40), strike "Subsection (a-5)" and substitute "Subsections (a-5), (a-6), (a-7), and (e)".

(2) In SECTION 22 of the bill, following added Section 46.02(a-5), Penal Code (page 8, between lines 4 and 5), insert the following:

(a-6) A person commits an offense if the person:

(1) intentionally, knowingly, or recklessly carries on or about his or her person a handgun;

(2) is not:

(A) on the person's own premises or premises under the person's control; or

(B) inside of or directly en route to a motor vehicle or watercraft that is owned by the person or under the person's control; and

(3) at the time of the offense, was prohibited from possessing a firearm under Section 46.04(a), (b), or (c).

(a-7) If conduct constituting an offense under Subsection (a-6) constitutes an offense under another provision of law, the actor may be prosecuted under Subsection (a-6) or under both provisions.

(3) In SECTION 22 of the bill, in amended Section 46.02(b), Penal Code (page 8, line 5), between "(d)" and the comma, insert "or (e)".

(4) In SECTION 22 of the bill, following amended Section 46.02(b), Penal Code (page 8, between lines 6 and 7), insert the following:

(e) An offense under Subsection (a-6) is:

1           (1) a felony of the second degree with a minimum term  
2 of imprisonment of five years, if the actor was prohibited from  
3 possessing a firearm under Section 46.04(a); or  
4           (2) a felony of the third degree, if the actor was  
5 prohibited from possessing a firearm under Section 46.04(b) or (c).  
6           (5) Add the following appropriately numbered SECTION to the  
7 bill and renumber subsequent SECTIONS of the bill accordingly:  
8           SECTION \_\_\_\_\_. Article 42A.054(a), Code of Criminal  
9 Procedure, is amended to read as follows:  
10           (a) Article 42A.053 does not apply to a defendant adjudged  
11 guilty of an offense under:  
12               (1) Section 15.03, Penal Code, if the offense is  
13 punishable as a felony of the first degree;  
14               (2) Section 19.02, Penal Code (Murder);  
15               (3) Section 19.03, Penal Code (Capital Murder);  
16               (4) Section 20.04, Penal Code (Aggravated  
17 Kidnapping);  
18               (5) Section 20A.02, Penal Code (Trafficking of  
19 Persons);  
20               (6) Section 20A.03, Penal Code (Continuous  
21 Trafficking of Persons);  
22               (7) Section 21.11, Penal Code (Indecency with a  
23 Child);  
24               (8) Section 22.011, Penal Code (Sexual Assault);  
25               (9) Section 22.021, Penal Code (Aggravated Sexual  
26 Assault);  
27               (10) Section 22.04(a)(1), Penal Code (Injury to a  
28 Child, Elderly Individual, or Disabled Individual), if:  
29                   (A) the offense is punishable as a felony of the  
30 first degree; and  
31                   (B) the victim of the offense is a child;



1           (11) Section 29.03, Penal Code (Aggravated Robbery);  
2           (12) Section 30.02, Penal Code (Burglary), if:  
3               (A) the offense is punishable under Subsection  
4 (d) of that section; and  
5               (B) the actor committed the offense with the  
6 intent to commit a felony under Section 21.02, 21.11, 22.011,  
7 22.021, or 25.02, Penal Code;  
8           (13) Section 43.04, Penal Code (Aggravated Promotion  
9 of Prostitution);  
10           (14) Section 43.05, Penal Code (Compelling  
11 Prostitution);  
12           (15) Section 43.25, Penal Code (Sexual Performance by  
13 a Child); ~~[or]~~  
14           (16) Section 46.02, Penal Code (Unlawful Carrying  
15 Weapons), if the offense is committed under Subsection (a-6) of  
16 that section and punishable under Subsection (e)(1) of that  
17 section; or  
18           (17) Chapter 481, Health and Safety Code, for which  
19 punishment is increased under:  
20               (A) Section 481.140 of that code (Use of Child in  
21 Commission of Offense); or  
22               (B) Section 481.134(c), (d), (e), or (f) of that  
23 code (Drug-free Zones) if it is shown that the defendant has been  
24 previously convicted of an offense for which punishment was  
25 increased under any of those subsections.

ADOPTED

MAY 05 2021

*Lately Spaw*  
Secretary of the Senate

*C. Schwan*

FLOOR AMENDMENT NO. 12

BY: \_\_\_\_\_

1 Amend H.B. No. 1927 (senate committee printing) as follows:

2 (1) In the recital to SECTION 17 of the bill (page 6, lines  
3 10 through 11), strike "Subsections (d-3) and (f-4)" and substitute  
4 "Subsection (d-3)".

5 (2) In SECTION 17 of the bill, strike added Section  
6 30.05(f-4), Penal Code (page 6, line 67 through page 7, line 13).

7 (3) Strike the recital to SECTION 25 of the bill (page 10,  
8 lines 25 through 27) and substitute the following:

9 SECTION 25. Sections 46.15(b) and (l), Penal Code, are  
10 amended to read as follows:

11 (4) In SECTION 25 of the bill, strike added Section  
12 46.15(m), Penal Code (page 11, lines 25 through 35).

ADOPTED

MAY 05 2021

*Latey Spaw*  
Secretary of the Senate

*[Signature]*

FLOOR AMENDMENT NO. 13

BY: \_\_\_\_\_

1 Amend H.B. No. 1927 (senate committee printing) by striking  
2 the recital to SECTION 17 of the bill (page 6, lines 9-11) and  
3 substituting the following:

4 SECTION 17. Section 30.05, Penal Code, is amended by adding  
5 Subsections (c), (d-3), and (f-4) and amending Subsections (d) and  
6 (f) to read as follows:

7 (c) A person may provide notice that firearms are prohibited  
8 on the property by posting a sign at each entrance to the property  
9 that:

10 (1) includes language that is identical to or  
11 substantially similar to the following: "Pursuant to Section 30.05,  
12 Penal Code (criminal trespass), a person may not enter this  
13 property with a firearm";

14 (2) includes the language described by Subdivision (1)  
15 in both English and Spanish;

16 (3) appears in contrasting colors with block letters  
17 at least one inch in height; and

18 (4) is displayed in a conspicuous manner clearly  
19 visible to the public.

**ADOPTED**

✓✓  
MAY 05 2021

*Latey Spaw*  
Secretary of the Senate

*C.*

*Schwartz*

FLOOR AMENDMENT NO. 14

BY: \_\_\_\_\_

1 Amend H.B. No. 1927 (senate committee printing) as follows:

2 (1) In the recital to SECTION 6 of the bill (page 3, line  
3 27), strike "Section 411.02096" and substitute "Sections 411.02096  
4 and 411.02097".

5 (2) In SECTION 6 of the bill, following added Section  
6 411.02096, Government Code (page 3, between lines 47 and 48),  
7 insert the following:

8 Sec. 411.02097. FIREARM SAFETY. The department shall  
9 develop and post on the department's Internet website a course on  
10 firearm safety and handling. The course must be accessible to the  
11 public free of charge.

ADOPTED

✓✓  
MAY 05 2021

*Latey Law C.*  
Secretary of the Senate

*[Signature]*

FLOOR AMENDMENT NO. 18

BY: \_\_\_\_\_

1 Amend H.B. No. 1927 (senate committee printing) by striking  
2 SECTION 4 of the bill (page 2, line 10 through page 3, line 19) and  
3 SECTION 10 of the bill (page 4, lines 32 through 38) and renumbering  
4 subsequent SECTIONS of the bill accordingly.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 7, 2021**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1927** by Schaefer (Relating to provisions governing the carrying of a firearm by a person who is 21 years of age or older and not otherwise prohibited by state or federal law from possessing the firearm and to other provisions related to the carrying, possessing, transporting, or storing of a firearm or other weapon; creating criminal offenses.), **As Passed 2nd House**

The fiscal implications of the bill cannot be determined at this time due to a lack of reliable information to provide a reasonably sound basis for estimating the impact of the bill on the number of license to carry applications and due to the number of cases of noncompliance resulting in penalty revenue, costs, fines and fees being unknown.

The bill would amend and repeal various provisions of the Code of Criminal Procedure, the Education Code, the Government Code, the Penal Code, the Health and Safety Code, the Labor Code, and the Alcoholic Beverage Code relating to the carrying of a firearm by a person 21 years of age or older and who is not otherwise prohibited from possessing the firearm and the carrying, possessing, transporting, or storing of a firearm or other weapon.

The bill would require the Department of Public Safety (DPS) to prepare and submit a report regarding certain firearm statistics not later than February 1 of each fiscal year to the Governor, Lieutenant Governor, and each member of the Legislature.

The bill would make it an offense for a person to intentionally, knowingly, or recklessly carry on or about his or her person a handgun in a motor vehicle or watercraft that is owned by the person or under the person's control at any time in which the handgun is in plain view, unless the person is 21 years of age or older or is licensed to carry a handgun.

Among other provisions, the bill would repeal Penal Code Section 46.035, which relates to the unlawful carrying of a handgun by a license holder, and provide that criminal trespass based on entry with a firearm or other forbidden weapon is a Class C misdemeanor except when the person personally receives notice by oral communication from the property owner and subsequently fails to depart, in which case the offense is a Class A misdemeanor. The bill would also make it a Class A misdemeanor offense to carry a handgun and intentionally display it in plain view of another person in a public place, with the exception of the handgun being partially or wholly visible but carried in a holster.

According to DPS, while there has been a steady and significant growth in the License to Carry program, there is a scarcity of data regarding the choices current or future handgun license holders may make regarding their preferences for obtaining a license or renewing a license that is not required. Additionally, public interest in a license to carry is affected by state and national events, which can cause significant increases in the number of applications. Based on the information provided by DPS, the fiscal impact of the bill cannot be determined due to a lack of reliable information to provide a reasonably sound basis for estimating the impact of the bill on the number of license to carry applications.

According to the Comptroller of Public Accounts, the fiscal impact with respect to the creation of new misdemeanor offenses cannot be determined as the number of cases of noncompliance resulting in penalty

revenue, costs, fines and fees is unknown. The fiscal impact with respect to the number of licenses to carry applications also cannot be determined.

According to the Office of Court Administration, Texas Commission on Law Enforcement, Department of Family and Protective Services, and Parks and Wildlife Department, no significant fiscal impact to the state court system is anticipated.

This analysis assumes implementing the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

### **Local Government Impact**

A Class C misdemeanor under the bill is punishable by a fine of not more than \$200. A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Other fiscal implication to units of local government cannot be determined at this time.

**Source Agencies:** 212 Office of Court Admin, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 407 Law Enforcement, 530 Family & Protective Services, 802 Parks and Wildlife Department

**LBB Staff:** JMc, LBO, KFB, NA, AF, DKN, CMA, ANE

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**April 28, 2021**

**TO:** Honorable Charles Schwertner, Chair, Senate Committee on Constitutional Issues, Special

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1927** by Schaefer (Relating to provisions governing the carrying of a firearm by a person who is 21 years of age or older and not otherwise prohibited by state or federal law from possessing the firearm and to other provisions related to the carrying, possessing, transporting, or storing of a firearm or other weapon; creating criminal offenses.), **As Engrossed**

The fiscal implications of the bill cannot be determined at this time due to a lack of reliable information to provide a reasonably sound basis for estimating the impact of the bill on the number of license to carry applications and due to the number of cases of noncompliance resulting in penalty revenue, costs, fines and fees being unknown.

The bill would amend and repeal various provisions of the Code of Criminal Procedure, the Education Code, the Government Code, the Penal Code, the Health and Safety Code, the Labor Code, and the Alcoholic Beverage Code relating to the carrying of a firearm by a person 21 years of age or older and who is not otherwise prohibited from possessing the firearm and the carrying, possessing, transporting, or storing of a firearm or other weapon.

The bill would require the Department of Public Safety (DPS) to prepare and submit a report regarding certain firearm statistics not later than February 1 of each fiscal year to the Governor, Lieutenant Governor, and each member of the Legislature.

Among other provisions, the bill would repeal Penal Code Section 46.035, which relates to the unlawful carrying of a handgun by a license holder, and provide that criminal trespass based on entry with a firearm or other forbidden weapon is a Class C misdemeanor except when the person personally receives notice by oral communication from the property owner and subsequently fails to depart, in which case the offense is a Class A misdemeanor. The bill would also make it a Class A misdemeanor offense to carry a handgun and intentionally display it in plain view of another person in a public place, with the exception of the handgun being partially or wholly visible but carried in a holster.

According to DPS, while there has been a steady and significant growth in the License to Carry program, there is a scarcity of data regarding the choices current or future handgun license holders may make regarding their preferences for obtaining a license or renewing a license that is not required. Additionally, public interest in a license to carry is affected by state and national events, which can cause significant increases in the number of applications. Based on the information provided by DPS, the fiscal impact of the bill cannot be determined due to a lack of reliable information to provide a reasonably sound basis for estimating the impact of the bill on the number of license to carry applications.

According to the Comptroller of Public Accounts, the fiscal impact with respect to the creation of new misdemeanor offenses cannot be determined as the number of cases of noncompliance resulting in penalty revenue, costs, fines and fees is unknown. The fiscal impact with respect to the number of licenses to carry applications also cannot be determined.

According to the Office of Court Administration, Texas Commission on Law Enforcement, Department of Family and Protective Services, and Parks and Wildlife Department, no significant fiscal impact to the state



court system is anticipated.

This analysis assumes implementing the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

#### **Local Government Impact**

A Class C misdemeanor under the bill is punishable by a fine of not more than \$200. A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Other fiscal implication to units of local government cannot be determined at this time.

**Source Agencies:** 212 Office of Court Admin, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 407 Law Enforcement, 530 Family & Protective Services, 802 Parks and Wildlife Department

**LBB Staff:** JMc, LBO, KFB, NA, AF, DKN, CMA, ANE

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**April 7, 2021**

**TO:** Honorable James White, Chair, House Committee on Homeland Security & Public Safety

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1927** by Schaefer (Relating to provisions governing the carrying of a firearm by a person who is 21 years of age or older and not otherwise prohibited by state or federal law from possessing the firearm and to other provisions related to the carrying, possessing, transporting, or storing of a firearm or other weapon; creating criminal offenses.), **Committee Report 1st House, Substituted**

The fiscal implications of the bill cannot be determined at this time due to a lack of reliable information to provide a reasonably sound basis for estimating the impact of the bill on the number of license to carry applications and due to the number of cases of noncompliance resulting in penalty revenue, costs, fines and fees being unknown.

The bill would amend and repeal various provisions of the Code of Criminal Procedure, the Education Code, the Government Code, the Penal Code, the Health and Safety Code, the Labor Code, and the Alcoholic Beverage Code relating to the carrying of a firearm by a person 21 years of age or older and who is not otherwise prohibited from possessing the firearm and the carrying, possessing, transporting, or storing of a firearm or other weapon.

Among other provisions, the bill would repeal Penal Code Section 46.035, which relates to the unlawful carrying of a handgun by a license holder, and provide that criminal trespass based on entry with a firearm or other forbidden weapon is a Class C misdemeanor except when the person personally receives notice by oral communication from the property owner and subsequently fails to depart, in which case the offense is a Class A misdemeanor. The bill would also make it a Class A misdemeanor offense to carry a handgun and intentionally display it in plain view of another person in a public place, with the exception of the handgun being partially or wholly visible but carried in a holster.

According to the Department of Public Safety (DPS), while there has been a steady and significant growth in the License to Carry program, there is a scarcity of data regarding the choices current or future handgun license holders may make regarding their preferences for obtaining a license or renewing a license that is not required. Additionally, public interest in a license to carry is affected by state and national events, which can cause significant increases in the number of applications. Based on the information provided by DPS, the fiscal impact of the bill cannot be determined due to a lack of reliable information to provide a reasonably sound basis for estimating the impact of the bill on the number of license to carry applications.

According to the Comptroller of Public Accounts, the fiscal impact with respect to the creation of new misdemeanor offenses cannot be determined as the number of cases of noncompliance resulting in penalty revenue, costs, fines and fees is unknown. The fiscal impact with respect to the number of licenses to carry applications also cannot be determined.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies

According to the Office of Court Administration, no significant fiscal impact to the state court system is anticipated.

### **Local Government Impact**

According to Travis County, no fiscal impact is anticipated. No significant fiscal implication to other units of local government is anticipated.

A Class C misdemeanor under the bill is punishable by a fine of not more than \$200. A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

**Source Agencies:** 212 Office of Court Admin, 304 Comptroller of Public Accounts, 405 Department of Public Safety

**LBB Staff:** JMc, DKN, CMA, ANE

## LEGISLATIVE BUDGET BOARD

Austin, Texas

### FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 25, 2021

**TO:** Honorable James White, Chair, House Committee on Homeland Security & Public Safety

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1927** by Schaefer (Relating to the carrying of a firearm by a person 21 years of age or older and who is not otherwise prohibited from possessing the firearm and to criminal offenses otherwise related to the carrying of a firearm; creating criminal offenses.), **As Introduced**

The fiscal implications of the bill cannot be determined at this time due to a lack of reliable information to provide a reasonably sound basis for estimating the impact of the bill on the number of license to carry applications.

The bill amends and repeals various sections of the Code of Criminal Procedure, the Education Code, the Government Code, the Penal Code, the Health and Safety Code, the Labor Code, and the Alcoholic Beverage Code relating to the carrying of a firearm by a person 21 years of age or older and who is not otherwise prohibited from possessing the firearm and to criminal offenses otherwise related to the carrying of a firearm.

Among other provisions, the bill would repeal Penal Code Section 46.035, which relates to the unlawful carrying of a handgun by a license holder, and provide that criminal trespass based on entry with a firearm or other forbidden weapon is a Class C misdemeanor except when the person personally receives notice by oral communication from the property owner and subsequently fails to depart, in which case the offense is a Class A misdemeanor.

According to the Department of Public Safety (DPS), while there has been a steady and significant growth in the License to Carry program, there is a scarcity of data regarding the choices current or future handgun license holders may make regarding their preferences for obtaining a license or renewing a license that is not required. Additionally, public interest in a license to carry is affected by state and national events, which can cause significant increases in the number of applications. Based on the information provided by DPS, the fiscal impact of the bill cannot be determined due to a lack of reliable information to provide a reasonably sound basis for estimating the impact of the bill on the number of license to carry applications.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies

According to the Office of Court Administration, no significant fiscal impact to the state court system is anticipated.

#### Local Government Impact

According to Travis County, no fiscal impact is anticipated. No significant fiscal implication to other units of local government is anticipated.

A Class C misdemeanor under the bill is punishable by a fine of not more than \$200. A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

**Source Agencies:** 212 Office of Court Admin, 405 Department of Public Safety  
**LBB Staff:** JMc, DKN, CMA, ANE

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**87TH LEGISLATIVE REGULAR SESSION**

**May 7, 2021**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1927** by Schaefer (Relating to provisions governing the carrying of a firearm by a person who is 21 years of age or older and not otherwise prohibited by state or federal law from possessing the firearm and to other provisions related to the carrying, possessing, transporting, or storing of a firearm or other weapon; creating criminal offenses.), **As Passed 2nd House**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to provisions governing the carrying of a firearm by a person who is 21 years of age or older and not otherwise prohibited by state or federal law from possessing the firearm and to other provisions related to the carrying, possessing, transporting, or storing of a firearm or other weapon. Under the provisions of the bill, certain weapons-related handgun offenses would be repealed, others would be enhanced in certain circumstances, and the circumstances for certain other weapons-related handgun offenses would be modified. Under existing statute, unlawful carrying of a handgun by a license holder, unlawful carrying of a weapon, or unlawful possession of a firearm are punishable as a misdemeanor or felony with the punishment based on the specific circumstances of the offense.

A second degree felony is punishable by confinement in prison for a term from 2 to 20 years and a third degree felony is punishable by confinement in prison for a term from 2 to 10 years. In addition to confinement, most felonies are subject to an optional fine not to exceed \$10,000. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Repealing or reducing the circumstances of felony offenses is expected to result in fewer demands upon the correctional resources of counties or of the State due to a decrease in the number of individuals placed onto supervision in the community or sentenced to a term of confinement within state correctional institutions while expanding the circumstances, enhancing the criminal penalty for, or making certain offenses ineligible for certain types of community supervision is expected to result in increased demands. From fiscal years 2018 through 2020, an average of 346 people were arrested, 23 were placed onto felony direct community supervision, and fewer than ten were admitted into a state correctional institution for the felony weapon and handgun related offenses modified in the bill. Of those, an average of fewer than ten younger than 21 years at the time of offense were placed on felony direct community supervision or admitted into a state correctional institution for the third degree felony offense of unlawful carrying of a weapon. This analysis assumes implementing the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

**Source**

**Agencies:**

**LBB Staff:** JMc, LBO, LM, SPA

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**87TH LEGISLATIVE REGULAR SESSION**

**April 28, 2021**

**TO:** Honorable Charles Schwertner, Chair, Senate Committee on Constitutional Issues, Special

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1927** by Schaefer (Relating to provisions governing the carrying of a firearm by a person who is 21 years of age or older and not otherwise prohibited by state or federal law from possessing the firearm and to other provisions related to the carrying, possessing, transporting, or storing of a firearm or other weapon; creating criminal offenses.), **As Engrossed**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to criminal offenses related to carrying a firearm. Under the provisions of the bill, certain unlawful carrying of a firearm felony offenses would be repealed and the circumstances for certain offenses would be modified. Under existing statute, unlawful carrying of a handgun by a license holder or weapon is punishable as a misdemeanor or felony based on the specific circumstances of the offense.

A third degree felony is punishable by confinement in prison for a term from 2 to 10 years and, in addition to confinement, an optional fine not to exceed \$10,000. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Repealing felony offenses is expected to result in fewer demands upon the correctional resources of counties or of the State due to a decrease in the number of individuals placed onto supervision in the community or sentenced to a term of confinement within state correctional institutions while expanding the circumstances for certain offenses is expected to result in increased demands. From fiscal years 2018 through 2020, an average of 346 people were arrested, 23 were placed onto felony direct community supervision, and fewer than ten were admitted into a state correctional institution for the felony weapon and handgun related offenses modified in the bill. Of those, an average of fewer than ten younger than 21 years at the time of offense were placed on felony direct community supervision or admitted into a state correctional institution for the third degree felony offense of unlawful carrying of a weapon. This analysis assumes implementing the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

**Source**

**Agencies:**

**LBB Staff:** JMc, LBO, LM, SPA

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**87TH LEGISLATIVE REGULAR SESSION**

**April 7, 2021**

**TO:** Honorable James White, Chair, House Committee on Homeland Security & Public Safety

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1927** by Schaefer (Relating to provisions governing the carrying of a firearm by a person who is 21 years of age or older and not otherwise prohibited by state or federal law from possessing the firearm and to other provisions related to the carrying, possessing, transporting, or storing of a firearm or other weapon; creating criminal offenses.), **Committee Report 1st House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to criminal offenses related to carrying a firearm or weapon. Under the provisions of the bill, certain unlawful carrying of a weapon or handgun felony offenses would be repealed and the circumstances for certain offenses would be modified. Under existing statute, certain unlawful carrying handgun or weapon-related offenses are punishable as a third degree felony based on the specific circumstances of the offense.

A third degree felony is punishable by confinement in prison for a term from 2 to 10 years and, in addition to confinement, an optional fine not to exceed \$10,000.

Repealing felony offenses is expected to result in fewer demands upon the correctional resources of counties or of the State due to a decrease in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions while expanding the circumstances for certain offenses is expected to result in increased demands. From fiscal years 2018 through 2020, an average of 33 people were arrested, fewer than ten were placed onto felony direct community supervision, and fewer than ten were admitted into a state correctional institution for the unlawful carrying felony offenses specified as offenses being repealed. This analysis assumes implementing the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

**Source**

**Agencies:**

**LBB Staff:** JMc, DKN, LM, SPA



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**87TH LEGISLATIVE REGULAR SESSION**

**March 25, 2021**

**TO:** Honorable James White, Chair, House Committee on Homeland Security & Public Safety

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1927** by Schaefer (Relating to the carrying of a firearm by a person 21 years of age or older and who is not otherwise prohibited from possessing the firearm and to criminal offenses otherwise related to the carrying of a firearm; creating criminal offenses.), **As Introduced**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to criminal offenses related to carrying a firearm. Under the provisions of the bill, certain unlawful carrying of a firearm felony offenses would be repealed and the circumstances for certain offenses would be modified. Under existing statute, certain unlawful carrying handgun-related offenses are punishable as a third degree felony based on the specific circumstances of the offense.

A third degree felony is punishable by confinement in prison for a term from 2 to 10 years and, in addition to confinement, an optional fine not to exceed \$10,000.

Repealing felony offenses is expected to result in fewer demands upon the correctional resources of counties or of the State due to a decrease in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions while expanding the circumstances for certain offenses is expected to result in increased demands. From fiscal years 2018 through 2020, an average of 33 people were arrested, fewer than ten were placed onto felony direct community supervision, and fewer than ten were admitted into a state correctional institution for the unlawful carrying offenses specified as offenses being repealed. This analysis assumes implementing the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

**Source**

**Agencies:**

**LBB Staff:** JMc, DKN, LM, SPA